

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER JOHN TROTTER,

Petitioner,

v.

SUPERIOR COURT OF CALIFORNIA,
CALAVERAS COUNTY,

Respondent.

Case No. 1:21-cv-00570-DAD-HBK

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
PETITION

(Doc. No. 11)

Petitioner Christopher John Trotter is a state prisoner proceeding *pro se* and *in forma pauperis* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On June 22, 2021, the assigned magistrate judge issued findings and recommendations recommending that the pending petition be dismissed for failure to exhaust his claim for relief by presenting them to the highest state court. (Doc. No. 11.) The pending findings and recommendations were served on petitioner at his address of record and contained notice that any objections thereto were to be filed within twenty-one (21) days of service. (*Id.* at 4.) Petitioner filed timely objections on June 30, 2021. (Doc. No. 12.)

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1 In his objections, petitioner asserts that he was advised by his appellate attorney to file a
2 petition for writ of habeas corpus following the conclusion of his state court appeal. (*Id.* at 1.)
3 Petitioner also reiterates his argument that he is being denied certain time credits to which he is
4 entitled. (*Id.*) Neither of these arguments address the fact that petitioner failed to exhaust his
5 claim because he did not seek review of his claim by the California Supreme Court, nor that
6 petitioner's sole claim for relief is now procedurally barred because his petition for review was
7 due to be filed in the California Supreme Court no later than April 7, 2021. (*See* Doc. No. 11 at
8 2–3.) As such, petitioner's objections are unpersuasive.

9 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a
10 *de novo* review of the case. Having carefully reviewed the entire file, including petitioner's
11 objections, the court concludes that the findings and recommendations are supported by the
12 record and by proper analysis.

13 Having determined that petitioner is not entitled to habeas relief, the court now turns to
14 whether a certificate of appealability should issue. A state prisoner seeking a writ of habeas
15 corpus has no absolute entitlement to appeal a district court's denial of his petition, and an appeal
16 is only allowed in certain circumstances. *Miller-El v. Cockrell*, 537 U.S. 322, 335–36 (2003); 28
17 U.S.C. § 2253. Where, as here, the court denies habeas relief on procedural grounds without
18 reaching the underlying constitutional claims, the court should issue a certificate of appealability
19 “if jurists of reason would find it debatable whether the petition states a valid claim of the denial
20 of a constitutional right and that jurists of reason would find it debatable whether the district court
21 was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). In the
22 present case, the court finds that reasonable jurists would not find the court's determination that
23 the petition should be dismissed debatable or wrong, or that petitioner should be allowed to
24 proceed further. Therefore, the court declines to issue a certificate of appealability.

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Accordingly:

1. The findings and recommendations issued on June 22, 2021 (Doc. No. 11) are adopted in full;
2. The petition for writ of habeas corpus is dismissed;
3. The court declines to issue a certificate of appealability; and
4. The Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

Dated: September 4, 2021


UNITED STATES DISTRICT JUDGE